

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

IN RE: KEVIN FRAZIER, : Case No. 3:17-CV-00320
Petitioner, :
: Judge THOMAS M. ROSE
: Magistrate Judge MICHAEL R. MERZ

AGREED ENTRY AND ORDER

Petitioner Kevin Frazier has petitioned this Court for a declaratory judgment or, in the alternative, exemption from disability under 29 U.S.C. §504 of the Labor-Management Reporting and Disclosure Act of 1959, (“LMRDA”). Specifically and *inter alia*, Mr. Frazier seeks a declaratory judgment that he is not disqualified by the LMRDA from serving as an officer, director, employee, or representative of a labor organization because he was never “convicted” of a crime, and because his guilty plea and participation in the intervention in lieu of conviction program pursuant to R.C. § 2951.041 resulted in his citizenship rights—having been revoked as a result of a disqualifying conviction—having been fully restored to him. 29 U.S.C. §504(a); and see Petition ¶ 25-27, Doc. 1, PageID# 4. Mr. Frazier also seeks relief from the disability imposed by 29 U.S.C. §504(a) on the ground that he “has been rehabilitated.” Petition ¶ 28, Doc. 1.

Pursuant to 29 U.S.C. §504(a)(5), Petitioner served a copy of this action upon the Secretary of the United States Department of Labor; the Ohio Attorney General; the Montgomery County, Ohio Prosecutor; and the United States Attorney for the Southern District

of Ohio. (Doc. 4; PageID #27). Other than the United States Department of Labor, no other agency or person has appeared in this action.

The Department of Labor has appeared and opposed Petitioner's request for a preliminary injunction while it undertook a review and investigation of this case. The Department of Labor is charged and tasked with enforcing and administering the LMRDA, and it has undertaken a thorough review of Mr. Frazier's petition. The Department of Labor has concluded that—under circumstances unique to this case—as a matter of fact and law, Mr. Frazier's citizenship rights were revoked as a result of his conviction but have been fully restored to him. 29 U.S.C. §504(a).

Mr. Frazier wishes to run for and, if elected, serve as an officer, director, employee, or representative of Amalgamated Transit Union, AFL-CIO Local 1385. Upon agreement of the Petitioner Kevin Frazier and the United States Department of Labor, and after being fully advised of the circumstances, it is hereby ORDERED, ADJUDGED, and DECREED that Kevin Frazier is not disqualified by the LMRDA from being nominated for or serving as an officer, director, employee, or representative of a labor organization.

November 6, 2017

*s/Thomas M. Rose

HONORABLE THOMAS M. ROSE
United States District Judge

Agreed to by,

For: KEVIN FRAZIER, Petitioner

/s/ Adam R. Webber
ADAM R. WEBBER, Esq.
Bar No. 0080900
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